

# ARKANSAS SUPREME COURT

No. CR 06-903

GEORGE AYDELOTTE  
Appellant

v.

STATE OF ARKANSAS  
Appellee

Opinion Delivered March 22, 2007

PRO SE APPEAL FROM THE CIRCUIT  
COURT OF CONWAY COUNTY, CR  
2001-168 B, HON. PAUL DANIELSON,  
JUDGE

AFFIRMED.

## PER CURIAM

In 2002, appellant George Aydelotte was found guilty by a jury of manufacturing a controlled substance, possession of a controlled substance, use of a communications facility, and simultaneous possession of drugs and firearms. An aggregate sentence of 240 months' imprisonment was imposed. The Arkansas Court of Appeals affirmed. *Aydelotte v. State*, 85 Ark. App. 67, 146 S.W.3d 392 (2004).

Appellant subsequently filed in the trial court a timely pro se petition pursuant to Ark. R. Crim. P. 37.1 seeking to vacate the judgment, which was denied. We affirmed the order. *Aydelotte v. State*, CR 04-822 (Ark. Nov. 10, 2005) (per curiam).

In 2006, appellant filed a second pro se Rule 37.1 petition in the trial court. The petition was denied, and appellant brings this appeal.

Criminal Procedure Rule 37.2(b) provides that all grounds for relief must be raised in the

original petition. A petitioner is not entitled to file a second petition under the rule, unless the original petition was specifically denied without prejudice to filing a subsequent petition. The rule is clear, and this court has consistently upheld it. *See, e.g., Swopes v. State*, 338 Ark. 217, 992 S.W.2d 109 (1999) (per curiam); *McCuen v. State* 328 Ark. 46, 941 S.W.2d 397 (1997); *Chambers v. State*, 304 Ark. 663, 803 S.W.2d 932 (1991) (per curiam); *Lewis v. State*, 299 Ark. 310, 771 S.W.2d 773 (1989) (per curiam); *Grooms v. State*, 293 Ark. 358, 737 S.W.2d 648 (1987) (per curiam); *Nation v. State*, 292 Ark. 149, 728 S.W.2d 513 (1987) (per curiam); *James v. State*, 289 Ark. 560, 712 S.W.2d 919 (1986); *Walker v. State*, 283 Ark. 339, 676 S.W.2d 460 (1984) (per curiam); *Williams v. State*, 273 Ark. 315, 619 S.W.2d 628 (1981) (per curiam). (*Chambers, Lewis, Grooms, Nation, James, Walker, and Williams* decided under a prior version of Rule 37.2(b) which contained comparable language to the current Rule 37.2(b)).

When appellant's original petition was denied, the court did not grant leave to file a second petition; therefore, appellant was procedurally barred from proceeding again under the rule. Moreover, even if the petition had been the first such petition filed by appellant, the trial court was without jurisdiction to grant relief. Petitions under Rule 37.1 must be filed in the trial court within sixty days of the date the appellate court mandate was issued. Ark. R. Crim. P. 37.2. The time limits set out in Rule 37.2 are jurisdictional in nature, and the circuit court may not grant relief on an untimely petition. *Maxwell v. State*, 298 Ark. 329, 767 S.W.2d 303 (1989).

Affirmed.

Danielson, J., not participating.